

REMARKS

Reconsideration and withdrawal of the requirement for restriction are respectfully requested in view of the remarks herewith.

The August 8, 2006, Office Action required an election under 35 U.S.C. § 121 from among sixteen (16) Groups. In response, Applicants provisionally elect the invention of Group I, claims 1-4, for further prosecution in this application. This election is made *with traverse* and without prejudice to Applicants' right to file divisional applications directed to the non-elected subject matter. Applicants expressly disagree with the Examiner's reasoning that restriction is required. Applicants respectfully urge that the Restriction Requirement does not establish that searching all the claims would constitute an undue burden to the Patent Office. Moreover, Applicants urge that the Restriction Requirement is contrary to public policy. Accordingly, Applicants submit that the Restriction Requirement is improper and should be withdrawn or at least modified.

The MPEP lists two criteria for a proper restriction requirement. First, the invention must be independent or distinct. MPEP § 803. Second, searching the additional invention must constitute an undue burden on the Examiner if restriction is not required. *Id.* The MPEP directs the examiner to search and examine an entire application "[i]f the search and examination of an entire application can be made without serious burden...even though it includes claims to distinct or independent inventions." *Id.*

Neither criteria is met here. The present claims clearly represent a web of knowledge and continuity of effort that merits examination in a single application. That is, the claims are not independent nor distinct.

Further, the search for any prior art reading on the Groups overlap. All the claims in all sixteen (16) Groups belong to a single art class (528). And all the claims in all sixteen (16) Groups are clustered in only four subclasses: Eight Groups fall within subclass 129; two within subclass 245; and three Groups each for subclasses 425 and 499. Thus, Applicants respectfully cannot believe that a burden exists for the Examiner to search for any prior art reading on the claims.

Instead, restricting the claims in the arbitrary manner suggested in the Restriction Requirement constitutes an undue burden to *Applicants*. That is, the cost Applicants will

inevitably bear in prosecuting and maintaining so many additional patents is grossly unreasonable in view of the fact that the sixteen (16) Groups are so closely related.

Further, the *public* is inconvenienced as they will not know whether or not Applicants will file divisional applications on any subject matter not elected herein. That is, the public will not know if they can practice the remaining inventions without infringing future patents Applicants may receive on the fifteen (15) non-elected Groups. And such a burden to the public far outweighs any self-perceived short-term inconvenience that the Examiner may experience searching in only one class for prior art reading on such a unified invention.

Accordingly, in view of the foregoing, reconsideration and withdrawal of the restriction and election of species requirements are respectfully requested.

No fee is believed required for consideration of this paper. If any fee is deemed necessary, authorization is given to charge the amount of any such fee to Deposit Account No. 08-2525.

Respectfully submitted,



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